

Summary Minutes
City of Sedona
Planning & Zoning Commission Meeting
City Council Chambers, Sedona City Hall, Sedona, AZ
Tuesday, December 1, 2009 - 5:30 p.m.

1. Verification of Notice, Call to Order, Pledge of Allegiance and Roll Call.

Chairman Griffin called the meeting to order at 5:32 p.m.

Roll Call:

Planning & Zoning Commissioners: Chairman John Griffin, Vice Chairman Alex Gillon, and Commissioners James Eaton, Michael Hadley, Marty Losoff and Norm Taylor

Staff: Audree Juhlin, John O'Brien, Donna Puckett and Ron Ramsey

Housing Commissioners: Vice Chairman Sandy Moriarty and Commissioners Natalia Molina McKendry, Karen von Merveldt-Guevara, Gene Snyder and Helen Snyder.

City Councilors: Vice Mayor Cliff Hamilton and Councilor Dan Surber

2. Summary of current events by Chairman/staff

John O'Brien indicated that the Sedona Cultural Park property with Fitch Industries will be back on January 5th for a Conceptual Review, and there has been no resubmittal for the Red Rock Village. For the February hearings, there is a Time Extension request from George Moore on the project on 89A. He built one office building and the project was approved for two office buildings and a lodging use, but with the economy the way it is, he is asking for a Time Extension. Additionally, the Red Rock Lodge was approved for an expansion as the Red Raven Inn, and they are coming back with a reduction in units; with the economy, they want to remodel some of the units rather than build all new units. Additionally, at next Tuesday's Council meeting, on December 8th at 4:30 p.m., the Sedona-Oak Creek School District will be presenting their proposal to install a large solar energy system at the high school this coming spring and the Commission is invited. It is an informational meeting to let the Council and community know what they intend to do. Lastly, we had five applicants for three vacancies on the Planning & Zoning Commission and interviews were completed last week by the committee of Mayor Adams, Vice Mayor Cliff Hamilton and Vice Chairman Alex Gillon. The three candidates recommended by the committee are John Griffin, Marty Losoff and Alain Soutenet, and the recommendation will go to the City Council on December 8th for possible confirmation, so we could have a full Commission at the December 10th work session and the December 15th public hearing.

3. Update on redevelopment planning effort by Chairman/Director

John O'Brien explained that the City Council had a retreat on November 20th and they put the 89A Redevelopment Plan on hold indefinitely. It was not a reflection of their priority for this, but a reflection of the economic and budgetary realities, so they won't authorize any expenditure for this project during this fiscal year. Since staff is facilitating the upcoming citywide update of the Sedona Community Plan, Council wants staff to address the 89A corridor to the greatest extent possible in conjunction with that update, so staff will explore options of where the Community Plan can be more specific to set the stage for more planning on the corridor. Staff will also look at public involvement that has a focus on the 89A West Sedona corridor as part of the overall community plan update, but given the budget issues, we are not moving forward with that project. Chairman Griffin asked if it is possible for the Commission to have a work session with Long-Range Planning to try

to see what can be incorporated and get the Commission's ideas to create some of the vision that we were going to create. John O'Brien indicated yes, there could be a work session on that and the Commission would be heavily involved in the citywide update. Vice Chairman Gillon pointed out that the work being done by the Commission's working teams is just about finished, so there may be some resources available and there could be a working team of some Commissioners, staff and a City Council member to look at the Community Plan and determine how we can deal with the 89A corridor.

4. Approval of minutes for the following meetings:

Thursday, October 1, 2009 (WS), Tuesday, October 6, 2009 (R) and Thursday, October 29, 2009 (WS)

Chairman Griffin asked if there was a motion to approve the minutes listed above.

MOTION: Vice Chairman Gillon so moved. Commissioner Eaton seconded the motion.

VOTE: Motion carried six (6) for and zero (0) opposed.

5. Public Forum – for items not listed on the agenda within the jurisdiction of the Planning and Zoning Commission – limit of three minutes per presentation. (Note that the Commission may not discuss or make any decisions on any matter brought forward by a member of the public).

Chairman Griffin opened the public forum and having no requests to speak, closed the public forum.

6. CONSIDERATION OF THE FOLLOWING REQUEST(S) THROUGH PUBLIC HEARING PROCEDURES: (75 minutes 5:45-7:00)

A. Discussion/possible action regarding proposed amendments to the Sedona Land Development Code allowing for the long-term rental of accessory dwelling units amending Article 2 (Definitions), Article 6 (District Regulations) and Article 9 (Development Standards) adding a new Section 918 establishing specific purposes, criteria and regulations regarding accessory dwelling units.

PRESENTATION, John O'Brien, Audree Juhlin and Sandy Moriarty: John O'Brien explained that Audree Juhlin would give the presentation and the Housing Commission would also like to make a comment before the Planning & Zoning Commission's deliberations. Audree Juhlin indicated that the proposed ordinance has been in the works for many years; the need for affordable housing was established when the City incorporated and the Sedona Community Plan was created. In 1990, the need was a priority and based on a grass roots community effort in 2003, the City Council established the Housing Commission to explore ways the City could create affordable housing. The Housing Commission was tasked with identifying a number of strategies that could or could not work in Sedona. One strategy was an incentives program for rezoning projects that developers could use and that was approved in 2006. Since that time, the Housing Commission has focused primarily on the Accessory Dwelling Unit (ADU) Ordinance as directed by the City Council. The first meeting was in 2006 and there have been a number of meetings in 2007, 2008 and 2009.

An ADU is a secondary dwelling unit to be rented on a single-family property, and they are usually smaller in size. The regulations in the proposed ordinance would address parking, enforcement, renewal permitting, height, lot coverage, etc. The first draft brought forward was in January of 2008 and it was based on model ordinances identified across the country, as well as communities that had instituted a similar program. We looked at communities similar to Sedona that were affluent, retirement and resort communities, and reviewed their ordinances, spoke with their staff and

questioned if their ordinance worked for them and what difficulties they may or may not have.

About ten communities responded to the questions and none of them expressed any concerns; they all felt this was a good approach to address affordable housing, but they all cautioned that if this is your one way to bring affordable housing into the community, you are probably not going to see a lot. All of those communities indicated that they only receive a few ADUs every year, so it is not an ordinance that generally creates a large number of units.

In the Staff Report, a few definitions have been included; the units are usually smaller in size and they can be located within, detached or attached to the single-family home. They are similar in appearance to the single-family home and they are also restricted by any CC&Rs that may be in place, so even if the City adopted this ordinance, CC&Rs prohibiting an ADU would prohibit those residents from creating an ADU. They are most often used for rental purposes, but also for exchange of services such as childcare, landscape maintenance or watching the house while owners are away, etc.

Various communities talked about a number of benefits and those are included in the Staff Report on pages 2 and 3. Regarding the community participation component, the concerns we heard during the 2008 outreach were mainly centered on parking, enforcement, occupancy and density, and the overall concern of what possible negative consequences could be realized by this ordinance. With those comments and the overall feeling that our 2008 draft was not restrictive enough, staff redrafted the ordinance in 2009 with a lot more restrictions, which included enforcement capabilities, reporting capabilities, renewal requirements, etc., and a lot more responsibility on the property owners to report what they were doing.

When the more restrictive draft ordinance was taken to the public in 2009, we heard over and over that staff had gone too far and it was too restrictive. It was now an ordinance that didn't support the creation of ADUs, and with all of the restrictions; it would act as a disincentive. Staff also heard some of the same concerns basically not supporting the concept of ADUs, such as the concerns about enforcement and parking. Those concerns were also expressed by the Planning & Zoning Commission, so staff redrafted the 2009 version to what you received in October, and it removed some of the cost prohibitive and more burdensome requirements, such as requiring the property owner to annually submit a renewal application and the requirement for staff to annually inspect the property. With the revisions in that draft, we received more positive support from the community saying they could now better support what is proposed tonight.

To emphasize the number of community opportunities that have been provided over the last two years, we had over 20 public meetings, including presentations and informal and formal meetings in 2008, as well as approximately 12 public meetings between the Planning & Zoning Commission and Housing Commission. In 2009, again there were over 20 opportunities for the public to participate, and we added a new component, which were the focus groups. Volunteers to participate in the focus groups were solicited and over 50 people asked to participate and all of them were divided into eight different focus groups. All of the comments received in 2009 are included in the packet the Commission received in the October 29th work session, including the focus group comments, and that is where we heard it is too restrictive, the fees are too high,

and revise it, so there have been a number of opportunities for the public to participate, plus the Housing Commission has had this on almost every agenda since January 2009 and the Planning & Zoning Commission has heard this about three times this year, so between the two Commissions, this has been on about 15 agendas.

Audree indicated that the specific concerns addressed in this draft ordinance include the following:

- Regarding parking, based on P&Z's recommendation, it now requires a parking plan.
- On page 2, the definition of "family" was not in the October 29th copy; it is being included to clarify that the definition of "family" applies to the lot. There was a concern by the citizens about how we would control occupancy and we wanted to clarify that "family" is defined for the lot, not a dwelling unit. Item C. says, "No more than a total of four unrelated adults with or without minor children, domiciled on a single residential lot." It is not based on a dwelling unit; it is based on a lot, which is critical for the occupancy standards established in the ADU Ordinance.
- Based on the Planning & Zoning Commission's comments, on page 6, in item M., we are clarifying that wherever possible, the stairs need to be located in the side or rear yard and it must comply with setbacks. We have also inserted the words "building code requirements" for clarification.
- Under N., it has been made clear that as part of the application process, a parking plan must be submitted for the ADU and the primary dwelling unit.
- Under 918.05, on page 7 in A.4, we have added that as part of the application submittal requirements, you have to submit the parking plan.
- On page 8, under Conditions of Approval, we reversed the order of the sentence, so it begins with "Upon a receipt of a complaint regarding an ADU, the property owner agrees to periodic inspections . . ."
- On page 9, we removed item D as it no longer applies, since we have revised the fee section. We were not able to provide the Commission with the details of the fees at the October 29th meeting, which is now on the next page.
- On page 10 under Fees, all ADUs are subject to any applicable building permit and/or inspection fees. The other two areas we weren't sure about were the Development Impact Fees and the Sewer Capacity Fees, and in discussions with staff and the City Manager's Office, we have determined that we will apply a multiplier rate of one-half of an ERU (Equivalent Residential Unit). Normally single-family homes are charged one ERU, but we are charging one-half of an ERU, because it is not a full residence, although it will have additional wastewater uses, such as an additional dishwasher, clothes washer, etc., which would potentially be generating more wastewater. ADUs would not be subject to Development Impact Fees, because the impact of the use is not changed by this ordinance; you still have the same occupancy, setbacks and lot coverage requirements, etc. Everything stays the same except we are allowing a rental use and a full kitchen, so we are recommending that no Development Impact Fees be applied.
- Based on the work session discussion, on page 10 regarding enforcement, we have added language that says that upon the notice of a complaint or some other violation of an ADU, the property owner must make every reasonable effort to correct the violation or fix the complaint, and if in the opinion of the Director, the property owner doesn't cooperate in a timely manner, the ADU permit may be revoked.

Audree indicated those are the changes in the draft ordinance from the October 29th version, and the Housing Commission is supporting this draft ordinance; however, they have some additional changes they would like to recommend. Audree indicated the Housing Commission's recommended changes are in the Staff Report, and she summarized them as follows:

- In Article 2, Definitions, they recommend deleting the second sentence from the definition, "Mobile homes, travel trailers and recreational vehicles cannot be used as ADUs", because a mobile home can be used as an ADU if you are creating it within or attached to a mobile home. We will remove that language and define it somewhere else, because you can use a mobile home as the ADU, if a mobile home is the primary dwelling unit.
- In Article 6.E, under District Regulations, they recommend deleting the word "exception", because this is a fact, and we don't have to say it is an exception. A guesthouse may be converted to an ADU, if they follow the requirements.
- In Article 9, Development Standards, under 918.02 - Creation, it would revise item A to read as follows: "Converting an existing structure. . ." This was discussed by P&Z, and the Housing Commission had similar concerns about "living area or garage area". P&Z suggested, "Converting existing living or garage area" in the work session, and the Housing Commission is suggesting "Converting an existing structure", so it is more generic and not as prohibitive as living and garage area.
- Under 918.03, Criteria in item D, they are recommending the deletion of that item, because in the earlier versions we said only one of the units could be used for a home business, not both, and that has been removed, because of public comments that they work out of their home and have an internet business, and questioning what is wrong with the other occupant having the same thing, so the reference restricting home businesses has been removed. Commissioner Eaton asked if it is being removed just because it is redundant and Audree explained it doesn't apply anymore, because it is covered under Home Occupations. Commissioner Losoff pointed out that home occupation when someone has a website, etc., is one thing, but questioned if they can have business traffic. Audree explained that there is a specific article in the Land Development Code that defines a home occupation and what it can and can't do. You can't have employees, outside storage, noise, etc., and staff feels the existing language protects the neighborhood from businesses that may become a nuisance. John O'Brien added that the language indicates that the residence has to retain its appearance as a residence and can't have more than 25% of the square footage for the home occupation, plus it restricts traffic to that typical of a residential neighborhood and they can't have signs or outside storage of materials, etc., so staff feels that the current home occupation codes work well. It can't be a retail shop that would generate more traffic than a residence would normally generate, for example, there are massage therapy and real estate businesses conducted out of the home on a low-key basis. Vice Chairman Gillon added that the relevant part of that is, "You shall not generate more pedestrian or vehicular traffic than typical of the district in which it is located."
- In 918.04, Development Standards, Audree explained that the recommended change in item D goes back to the definition and revising the statement about mobile homes, travel trailers and recreational vehicles. It now reads, "Mobile homes, travel trailers and recreational vehicles shall not be used as ADUs, but their concern with the way it is written is that existing mobile homes would not be able to have an ADU within or attached to their mobile home, so they are clarifying it to say as a detached ADU. The Chairman confirmed they couldn't add a mobile

home, and Audree explained that we don't want two mobile homes on a property, but if you want to create one within an existing mobile home or build one attached to the mobile home, and you can meet the requirements, that would be okay. If it was attached by bringing onto the lot a new mobile home, it would not be acceptable. Commissioner Eaton pointed out that on his copy on page 5, it is item D and Audree agreed it is item D. Vice Chairman Gillon explained that the Staff Report says E and Audree indicated that is a typo; it is D.

- In 918.04J item #3, it is about the size of an ADU. Currently it reads that the Director may allow for a lesser or greater amount of floor area and the Housing Commission wants to clarify that it is for existing structures; the requirements for new structures can't be changed. It is for those already built that the Director would have some ability to make changes.
- In 918.06 E, Conditions of Approval, not item F as indicated in the Staff Report, because one of the items was deleted, it says, "The City may require the owner to remove any improvements added to establish an ADU", and they are suggesting to change "establish" to "create" an ADU. Commissioner Losoff indicated that is just wordsmithing and Audree agreed they just liked the word "create" better.
- The Housing Commission is also recommending changing the structure of the ordinance to have one general criteria and standards section and under that would be the criteria and then the development standards under one heading, rather than being split under two headings, so that would combine under one heading 918.03 Criteria and 918.04 Development Standards. They are basically requirements and they are suggesting they be put under one section that says these are the standards and combine them.
- Additionally, the Housing Commission wants staff to go through the ordinance to ensure we are consistent in saying the Director is the Community Development Director, and she thinks the draft ordinance before you has that language.

Commissioner Losoff indicated that he doesn't know how many times we have seen this now and to make those kind of changes either we stop the discussion and go back to review the whole thing again or we just say thanks but no thanks, and he is inclined to say thanks but no thanks, at least on the last recommendation about restructuring; he doesn't know how the rest of the Commission feels, but it is getting carried away on revisions, revisions, revisions. Audree indicated that she can't speak on behalf of the Housing Commission, but she doesn't think they would have a problem with not restructuring those two sections.

Chairman Griffin pointed out that they are the ones that brought it forward to P&Z in that format, so he agrees. Maybe it is not an issue, but to reevaluate it at this point; development standards and criteria seem different to him. If all of the points are in there, what is the difference, does one have more power than the other, criteria and development standards are both requirements.

Commissioner Eaton indicated he would like to understand their reason for doing this; is it for clarification or is there a problem? Audree indicated that at least one Commissioner felt it was less cumbersome if you put all of the requirements and standards under one section, including the requirements for the property owner and the requirements for the development standards, so you could say General Requirements and then have the property owner and the development standards under one section; it was an easier transition to understand. Commissioner Eaton noted so it would be more

user friendly and it doesn't change anything. Audree indicated that it doesn't change the intent or purpose; in their mind, it was more of a clarification. Commissioner Eaton indicated he is inclined to agree, if it makes it easier to use and less cumbersome, and since this is the first time we are hearing about this, he has to trust that. Audree explained that basically if we went with that recommendation, we would have a new heading of General Criteria and Development Standards, and then A would be the Criteria in 918.03 and B would be 918.04 Development Standards. Commissioner Eaton indicated that if that is all it is, he wouldn't have a problem with it.

Chairman Griffin pointed out that you would then have a huge section and sometimes there is an advantage, but he doesn't know. Vice Chairman Gillon indicated he likes the division as it is; he sees differences between the criteria and the development standards. The development standards talk about what you are building, whereas the criteria talk about who can use it, so they are completely different to him.

Commissioner Losoff expressed that it doesn't change the substance of the ordinance, and he guesses if we were to revise it, we could put numbers instead of bullets, etc. for a different format, but if it doesn't change the substance, he would be inclined to go along with Vice Chairman Gillon and not bother with it at this stage of the game.

Commissioner Hadley asked if staff supports the Housing Commission's recommended revisions and Audree indicated yes, staff feels they brought up some good clarifications for the mobile homes in particular and clarifying that the Director has discretionary ability for existing structures only.

John O'Brien explained that staff had two site plans drawn up, because we wanted to show the difference between what is currently allowed in the code for a guesthouse and what would be allowed under the draft ADU Ordinance. The hypothetical project for a guesthouse has a home that is a little over 2,200 sq. ft. and the guesthouse is 1,225 sq. ft., which is allowed under the current code, because there is no limit; the only thing that limits it is the lot coverage restrictions, and this is on approximately a 19,000 sq. ft. lot in the RS-18B zoning district, which has an 18,000 sq. ft. minimum lot size. The lot coverage maximum is 35%, so it would allow a little less than 6,700 sq. ft. of total lot coverage on this property and this particular example has 3,433 sq. ft. of lot coverage or 18%, so it is using a little over one-half of what would be allowed by the current code. Guesthouses have to meet the setback requirements of the main dwelling, so that shows the guesthouse as meeting that provision. It also has to meet height restrictions and be architecturally compatible to the main dwelling under the current code.

John indicated that the ADU Ordinance is reflected on the next sheet with the same hypothetical lot of 19,000 sq. ft. in the same zoning district with 35% lot coverage and the size of the residence is the same, but the ADU can only be a maximum of 800 sq. ft., so there is a restriction on the size of the ADU. Obviously, the residence could be larger, but the ADU could only be 800 sq. ft. Also, the ADU must meet the setback and building height requirements and under the definition of "family" there cannot be more occupants on that site than currently allowed by the existing code. The lot coverage also remains the same, so in essence the only thing that is different is the ADU would be smaller than a guesthouse under some circumstances and it could be rented. We just wanted to show these two hypothetical plans and the difference in what is currently allowed and what would be allowed if the ADU Ordinance is approved by the City Council.

Vice Chairman Gillon noted that this is an example where they could not convert the guesthouse into an ADU, because it is beyond the 25% discretion allowed, but they could build an ADU on the other corner of the lot. John O'Brien agreed that could happen as long as they don't exceed the lot coverage, which they could do now anyway with other accessory buildings on the site.

John O'Brien indicated that at the October 5th joint City Council and Housing Commission meeting, it was discussed that the ADU Ordinance would likely be reviewed by City Council sometime in January, so on that basis and considering the 3-year effort with gobs of public input opportunities, Commission meetings, etc., staff is requesting that the P&Z Commission make a final recommendation tonight and forward that recommendation on to the City Council, so the Council can make a final decision on this in January. We would hope this is the Commission's final meeting on this and any recommendation you make could go to the Council in January.

Commissioner Losoff asked if the recommendation has to go back to the Housing Commission and John O'Brien stated no, the formal recommendation is from the Planning & Zoning Commission for Land Development Code amendments. The Housing Commission's recommendations will go to the Council, but the formal recommendation is from P&Z. John O'Brien also explained that the Housing Commission directed Vice Chairman Moriarty to make a statement on the Housing Commission's behalf, so he would like for her to provide those comments at this time.

Sandy Moriarty, Vice Chairman of the Housing Commission, indicated she was speaking on behalf of the Housing Commission and read the following statement:

"City Council has directed the Housing Commission to come up with a multiple-prong approach to address affordable housing. To paraphrase the Sedona Community Plan, it is important to ensure that Sedona provides a variety of housing opportunities for all. Allowing the rental of Accessory Dwelling Units, or ADUs, is one approach that works well in many similar communities across the country with little to no negative impacts reported. Sedona's Community Plan also supports the ADU concept.

As we all know, Sedona is a community that includes nurses, teachers, ministers, clerks, artists, caregivers, waitresses, emergency response personnel, senior citizens and young people -- basically the people who make our community a great place to live. As housing costs have escalated, and even in today's economic downturn, our workforce continues to find it increasingly difficult to live in the community they serve, our youth cannot afford to remain here and many of our elderly population are finding it more difficult to stay in their homes.

Additionally, workers are now more than ever looking for opportunities to work closer to where they live -- the reasons include wanting to be closer to where their children go to school, day care options, the cost associated with commuting -- time and money, and reducing their environmental impacts. We recognize that Sedona cannot provide housing for everyone, and while this is not the goal of the Housing Commission, it is important to try to provide more affordable housing options where appropriate and possible. The Housing Commission strongly feels that the ADU concept meets this objective.

The Housing Commission, with the assistance of the Planning & Zoning Commission, has been researching and drafting an Accessory Dwelling Unit Ordinance for many years. After much review, evaluation, and community input, the Housing Commission feels that the proposal before you tonight is a well thought-out document, balancing the need for affordable housing while addressing many of the concerns brought forward by the community.

Our research indicates that allowing the rental of accessory units can provide a number of benefits:

- The community can benefit from the addition of affordable housing within the existing housing stock with little or no public expense. ADUs encourage efficient use of existing housing stock and infrastructure and support better housing maintenance.
- Homeowners can benefit from the additional rental income that they can use to pay part of their mortgage payment, help pay for the upkeep of their home, provide for companionship and/or security and ADU rents can be exchanged for specific services, such as child care or landscaping. ADUs can also increase housing opportunities for people with disabilities who can live independently in their home, but remain close to others who can provide assistance as needed.
- Tenants can benefit as ADUs often rent for less than the average market rate units. Workers can live in the community they serve. Young families can save up for a down payment.

The Housing Commission supports the ADU concept and the proposed ordinance before you tonight for your consideration. This proposal is a result of years of research, numerous revisions, and extensive public outreach, including the Planning & Zoning Commission's, the Housing Commission's and staff's input. A packet containing the public comments received since last spring regarding the proposal was provided to you in your October 29th work session packet. As you saw, the City received many comments and concerns, both in support and against the proposal. All comments and concerns were considered, and where possible and appropriate, addressed in the draft before you tonight.

The specific points I would like to make regarding the ADU proposal are:

- The proposal recommends reasonable standards, with sensitivity to compatibility within existing neighborhoods.
- The standards address specific issues, including minimum and maximum unit size, total occupancy, parking requirements and owner occupancy requirements.
- The standards are not too restrictive or cost prohibitive.
- The proposal limits the total number of ADUs that can be built to a total of 88 at which time or within five years, whichever comes first, the ordinance will sunset and be reviewed again by the Planning & Zoning Commission and City Council.
- And, the Housing Commission believes that an important point to make is that by requiring the property owner to live on site, you have the greatest property manager and the strongest enforcement possible. Additionally if living on site, it is highly unlikely that the property owner will not be interested in maintaining the residential character of the neighborhood and property values.

Again, the Housing Commission supports the ADU proposal before you tonight and suggests several additional changes as indicated on pages 10 and 11 of your Staff Report. The Housing Commission has spent many years on this proposal

with input from the community, the Planning & Zoning Commission and staff. The draft has been reworked several times, with consideration given to the input received and the success of other communities with similar ordinances. Many communities, including affluent, resort and retirement communities allow for the rental of accessory units. These communities have not experienced the concerns raised during the public outreach process and indicate that this is a good approach in providing for affordable housing options.

The Housing Commission asks that you will support this proposal and recommend its approval to City Council. A number of Housing Commissioners are present tonight and we are happy to answer any questions you have of us. Thank you for your time and thoughtful consideration.

Chairman Griffin indicated that at this time we do need to get some clarifications and ask questions regarding the Staff Report, and then we will allow the public to speak.

COMMISSION'S QUESTIONS OF STAFF:

Commissioner Taylor asked if the map showed the number of communities with CC&Rs that might prohibit guesthouses and Audree explained that is a draft map and the blue areas are areas that we do not know, the salmon areas have CC&Rs that would prohibit ADUs, and there are four green areas that would allow the rental of an ADU; they are basically the Kachina and Coffee Pot subdivisions, the Grasshopper Flats area and Juniper Knolls. John O'Brien pointed out that there are also some subdivisions in the Chapel area.

Commissioner Taylor referenced a number of communities listed on page 3 that have an ADU Ordinance and asked if those communities balance, in terms of the amount of residential area that allows ADUs. Audree explained that question wasn't specifically asked, so she really can't answer that question, but the communities for the most part allow them across the board, although a few communities did restrict them to certain zoning districts or they divided them based on areas in town, for example, only the areas closest to a commercial area, but we didn't have information on their CC&Rs.

Commissioner Taylor indicated his other question was answered on the sunset clause, which is important and enables him to vote for the proposal, because otherwise, we would possibly have another real upset in town, and it avoids that by giving us a chance to see what happens. Audree Juhlin indicated that the Housing Commission spent a lot of time considering that component, and in trying to be sensitive to the need for affordable housing while balancing the concerns raised by the community, we felt that by limiting the number to 88, it will give us time to evaluate if the ordinance works in Sedona without a lot of negative impacts, and 88 is probably higher than we will get and the five years will probably come sooner than the 88 units.

Commissioner Losoff indicated that we defined the number of people that can live in an ADU and he recalls that the attorney at one time told us that we can define it, but it would be superseded by other considerations, is that the case? We could say not more than four people, but if a family had six or seven in the family, that would supersede the definition. John O'Brien clarified that the current definition of "family" says a maximum of four unrelated adults and we aren't changing that, but you can have an unlimited number of related adults and we aren't changing that either. The only thing

we are changing is "on the lot" you can have a maximum of four unrelated adults or an unlimited number of related people.

Commissioner Losoff indicated that we are saying one parking space for the ADU, but it doesn't address on-street parking, so if there are four unrelated adults living in an ADU -- John O'Brien clarified living on the whole property and the Commissioner added that there could be one or two cars on the street. Audree Juhlin explained she thinks he is indicating the primary dwelling unit would allow for on-street parking and that is allowed in the current code, unless it is a street posted as no parking or the width doesn't provide for two-way traffic. John O'Brien added that we are also saying that they have to provide for at least one parking space for the ADU, but not more than two and they have to provide two for the main dwelling. The Commissioner indicated that unless the street is restricted by the City, there can be on-street parking and Audree pointed out that is currently allowed in the parking regulations now.

Chairman Griffin pointed out that the ADU would have to show that it has its own parking places. Audree Juhlin clarified that the parking plan says you need to delineate the places where both the ADU and the primary residence will park, so if they are going to utilize the street, the Director has the ability to say that is not acceptable and not approve the ADU. The parking plan really gives us a lot of ability to regulate where the vehicles are parked, and as part of the Conditions of Approval we could say that in accommodating this ADU, you can't park on the street and you have to show how your property can meet the parking requirements for both units. Commissioner Losoff stated it still would not limit parking on the street, depending on the number of people living in the primary and accessory unit. Audree explained if it is part of the Conditions of Approval, she thinks we have the enforcement ability to say that you can park based on your parking plan, which may not include on-street parking, and then we can enforce that. John O'Brien pointed out that the ordinance says that on-street parking is prohibited and Audree added for the ADU.

Commissioner Losoff indicated that we are saying one parking space or maybe two for the ADU and if there are three people living in the ADU, somebody is going to park on the street. Audree explained that could be a violation of the Conditions of Approval and we would tell the property owner that situation needs to be rectified. The Commissioner asked if this ordinance would supersede the city ordinance about parking on the street; this is an issue that keeps coming up and is a problem now, and he wanted to be clear as to what comes first, this ordinance or the City parking regulations.

Audree asked Ron Ramsey if we have Conditions of Approval that say this is the parking plan and they have to adhere to that plan and it may not include any on-street parking, would that supersede existing parking requirements, and Ron Ramsey said yes. Vice Chairman Gillon pointed out that in the worse case without an ADU you can have four unrelated adults and two parking spaces; with an ADU, you can have four unrelated adults and at least three parking spaces, so in the worse case it is better.

Commissioner Taylor indicated that his understanding is that the ADU gets up to two parking spaces and the occupants have to get their cars in those two spaces, but the house could have four cars, and before the ADU, they might have had two cars in the yard and two in the street and they can continue doing that. John O'Brien indicated that is correct, this would apply to the ADU. The Commissioner indicated it becomes a

tough enforcement thing, because people on the street won't know whose car is whose. Audree Juhlin explained that with the language regarding the parking plan, the property owner has to delineate the parking places for the ADU and the primary dwelling unit, and the Conditions of Approval would be based on that plan, so they are designating parking for both. Chairman Griffin noted that as the Vice Chairman said, it is an improvement over what is allowed right now.

Commissioner Hadley indicated he appreciated the time, effort and research that has gone into this, and he commends the staff and Housing Commission for that.

Commissioner Eaton asked why there is a maximum of two for the off-street parking spaces; if there is room on the lot, why restrict it? John O'Brien explained there was a concern from the public about too many cars on properties, so we tried to address that. Commissioner Eaton noted that it is requiring a parking plan and you could require that they be landscaped, etc., so he wondered why a maximum needs to be in the ordinance. John O'Brien repeated that staff was just trying to address that concern, but there are other ways to address it. The Commissioner added that they could be landscaped or behind buildings, etc., and you are forcing some to possibly be on the street by having that maximum, so he would be inclined to remove that "no more than two". Otherwise, it has been massaged for three years and he has probably put up as many hurdles and hoops as anybody and all of his concerns have been addressed and he thinks it is great.

Chairman Griffin pointed out that there are situations where parking isn't allowed on the street, so there could be discretion by the Director. Commissioner Eaton indicated that we have discretion now, and that is why he is wondering about having a maximum of two in the ordinance; it is not needed. Chairman Griffin repeated that if there was a condition that wouldn't allow parking on the street, it seems that it would allow for extra guest parking, but Commissioner Eaton pointed out that the ordinance says no more than two. John O'Brien indicated it could be addressed by removing that maximum, if the Commission wants to go that way.

Commissioner Losoff stated that he doesn't want the density and Commissioner Taylor agreed that we don't want cars all over the lot, that is the whole idea, and you do have to limit it. We used the mother-in-law as an example, and she may not have a car, so what is the average number of cars for an ADU? He wouldn't think it would be above two. Audree indicated that was a question that was asked of the other communities, and they indicated that typically there is one car for an ADU.

Vice Chairman Gillon asked if there is any limit on the number of parking spaces in the non-ADU situation and Audree indicated it requires a minimum of two for the single-family lot. Vice Chairman Gillon noted that he was inclined to leave the maximum also. The largest number of unrelated adults you could have in an ADU is three and more often it will be one or two. John O'Brien confirmed there is not a maximum in the existing requirements for the primary dwelling.

Chairman Griffin referenced the change made in Conditions of Approval, item D, "Upon receipt of a complaint regarding an ADU, the property owner agrees to periodic inspections", and then asked if that means he would have inspections forever or if it just deals with that specific concern. Audree explained it is based on the discretion of the Director. When the Community Development Department receives the complaint, the Director could say this is a valid complaint, so inspect it, and the property owner is

agreeing to do that. The Chairman questions the word "periodic" and Audree indicated it could be removed. Vice Chairman Gillon indicated he thinks it is a good provision; he doesn't think the City is going to be anxious to do a lot of inspections, if they aren't needed, but if you get a bad actor that repeatedly tries to flaunt the requirements, it is good to have that discretion to go in again and again to investigate. It would be self-limiting, because the City doesn't have that many resources to do inspections.

Chairman Griffin indicated the only downside is one slip whether legitimate or not and the property owners are agreeing to having that inspection. Audree Juhlin repeated that "periodic" could be removed. Chairman Griffin indicated that the Vice Chairman thought it was good, but you have to look at it from someone who is considering doing this, and the conditions they would accept, and if somebody makes one complaint, you are on the list, and the City would have that ability, whether or not they do it. If there is a complaint, they always have that ability. John O'Brien explained that each situation would be unique, and if staff received three unfounded complaints in a week, we would know the neighbors don't like each other, and probably wouldn't go out as often, but he doesn't have a problem with "periodic". There is value in leaving that in; it gives staff the discretion, but we would use judgment based on the situation.

Chairman Griffin asked about using one-half of an ERU, because there may be an additional dishwasher. He has built houses and never had the quantity of dishwashers, etc., in the main residence questioned, so he doesn't know of any limit on those, and he is trying to understand the rationale. At \$5,000 for a Sewer Capacity Fee that is at least \$2,500 additional we are putting on this, because the person living there who is part of a family grouping that can't exceed a certain amount is maybe going to have a washing machine, but it is still just a family unit, and they are going to do the same amount of wash, so he has a little problem with that, if we are trying to promote these. Audree Juhlin explained that staff and the Housing Commission were trying to find ways to not have the fees for wastewater applied, but Charles Mosley couldn't support it. He basically felt that although the circumstances are the same, there is no limit on the number of dishwashers, etc., that can be on the property, he felt that actual water use and wastewater use will increase, because you have in essence two households, even though you don't exceed the allowed occupancy, so your dishwashing and laundry probably will increase. He was able to support one-half of an ERU, because it won't increase to the extent of two families, as defined, on the lot or eight unrelated adults.

Chairman Griffin stated that if you really want to be fair about your amount of wastewater, it should be related to the water use, but the City doesn't get those figures, so it can't be done. You are going to have some places with one person in each, and next door, it could be a family with sixteen children without an ADU, so he thinks it is something that needs to be looked at. Commissioner Eaton indicated he had a similar concern, but he thought this is another home with another family, so why one-half, and then he realized it is an 800 sq. ft. home, so it probably isn't going to have sixteen children and the goal is affordable housing, so he decided one-half is fair.

The Chairman opened the public comment period at this time.

Jolene Pierson, Sedona, AZ: Indicated that she is very hopeful that this amendment will pass to allow the rental of ADUs. She lives in an area that has a home every 2½ acres, and she is getting older and doesn't see her neighbors, so she would like to be able to have her existing guesthouse rented to somebody that would check-in on her

now and then, or that when her savings is depleted as the economy gets worse, she perhaps would need some personal assistance and it could help offset that cost, so she is very much in favor of this ordinance and she would like to see it pass.

Cole Greenberg, Sedona, AZ: Indicated he is speaking for himself and in opposition to this notion. In his experience, enforcement of zoning and development-related issues is abysmal and it has been for the 18 years he has lived here, so to look forward to more enforcement duties is just whacky. That this proposal will not significantly add to density is also foolishness. When this kind of thing happens in a neighborhood, increasing density, as a former appraiser, means lower values, but just in case there are some neighborhoods where this will happen that haven't been developed yet, values will increase in those neighborhoods. Maybe there is a developer in the background someplace. Environmental impacts are obvious -- greater density, harder on the environment. One thing at the essence of this is legislative re-definition of a term in very broad use; the term single-family will now mean multi-family in Sedona. I don't think you can do that legislatively. If it is a term that no one is using, you can have your way with it, but everyone is using it and single-family means single-family. He asked a little less than a year ago, under the Freedom of Information Act, for the value of the staff time spent on this project and the cost to the City. He got an answer that was only about the cost to the City for cookies, bottled water and an occasional room rent somewhere for the meetings, and he was told that the City has no way of keeping track of staff time -- at all apparently. Maybe we ought to deal with that instead of this.

Chip Putman, Sedona, AZ: Indicated he would like to speak in favor of ADUs. They can be good for families. He is married with two children and they are at West Sedona and get home on the school bus at 2:30 or 3:30. His Mom has recently been widowed, so they are discussing the possibility of an ADU, so she could have a little cottage on our property. He and his wife both work and now the kids go to the Boys & Girls Club until maybe 5:00 or 6:00 p.m., which is a long day for them, and just the idea of having her here in the winter months to meet the school bus and work with them on their homework, and having some quiet time they find very appealing, and this would be good for Sedona families. He loves the idea of the generations together on one property, but she still wants her independence and doesn't want to live in a bedroom in their house, so he hopes this will pass.

Jean Jenks, Sedona, AZ: Indicated she sent a lengthy letter and she will only have time to cover one issue that she was concerned about. The Sedona Community Plan's Future Land Use Map designates maximum residential densities. The proposed ADU Ordinance involves increases in density beyond the density range of the specific residential land use categories depicted on the Future Land Use Map. For Single-Family - Very Low Density the maximum density is .5 of a dwelling unit per acre; for Single-Family - Low Density, it is 2 dwelling units per acre; for Single-Family - Medium Density, it is 4 dwelling units per acre and for Single-Family - High Density, it is 8 dwelling units per acre. Doubling the maximum density currently allowed by authorizing a second unit on parcels, an ADU, represents a change to the Future Land Use Map for all residential categories and under the law requires a Major Amendment to the Sedona Community Plan. Also for those areas in Single-Family - High Density, doubling the maximum density allowable from 8 dwelling units per acre to 16 violates the City of Sedona's 12-unit per acre maximum. Under the law a Major Amendment to the Sedona Community Plan is also needed to increase the City's maximum beyond

what it is now. A lawsuit is a distinct possibility if the ordinance rather than the Major Amendment route is followed.

Natalia Molina McKendry, Sedona, AZ: Indicated she is a Housing Commissioner, but she is speaking for herself in favor of the ordinance for four reasons that she calls the "Four Rs" -- Regulation, Risk Reduction, Return on Investment and the Right Thing to Do. Regulation -- the ordinance is reflective of community input from all walks of life, including but not limited to input from City Council and Planning & Zoning. Risk Reduction -- having the property owner on location, as previously stated, facilitates the monitoring of his or her property and enforcement. The regulation prevents substandard housing and upholds the neighborhood character, including the architectural standards. Return on Investment -- it can be argued that there are both tangible and intangible benefits to Accessory Dwelling Units. There would be a greater sense of community as people can live where they work, families can thrive in the community in which they are located, and money is reinvested into the community. The residences may actually increase in value as the property has a proven income potential via the rental of the ADU. Last but not least, the Right Thing to Do -- as part of the Community Plan, we are charged to follow-through with this as a tenet to which we as a community have agreed. Moreover, if we look at the vision of the City, paraphrasing, we as a City are to be faithful and good stewards of the land and its people; this would be in fulfillment of that vision. Thank you and she hopes you endorse the ordinance.

Marlene Rayner, Sedona, AZ: Indicated that the concept of affordable housing might be an admirable solution to workforce housing in Sedona; however, the pursuit of such a goal through the addition of Accessory Dwelling Units to the Sedona Land Development Code remains very contentious with most residents of this City. Second, the amendment makes Sedona less restrictive than either county and presently unincorporated areas of Yavapai and Coconino Counties do not allow any rental of guesthouses. This amendment unfairly targets and increases allowable density only in certain single-family residential neighborhoods -- those without strong CC&Rs. Most of the rest of us are protected, thus, this amendment reduces the protection of zoning and integrity in those neighborhoods. Third, there is a present problem with lack of enforcement and she has heard over and over a common resident complaint that the City does not enforce the illegal ADUs or even the allowable numbers of unrelated renters for any one dwelling. If you add enforcement, the cost would become a subsidy from the City, because the cost for this effort would require more staff and the necessary staff wouldn't equal the one-time fees.

Eddie Maddock, Sedona, AZ: Indicated that sticking to rules regarding provisions for affordable housing seems to have become a problem from the onset; for example, the deal made with Fairfield, in their Development Agreement for a certain number of "affordables", never came to pass. More recently, the affordable deal made with L'Auberge was subsequently moved to an off-site location. Similar stipulations have been attached to other Development Agreements, such as with the City Council's approval of the addition to Sedona Rouge; however, have any "affordables" actually come to pass? The mixed-use complex adjacent to Pizza Picasso initially featured affordable lofts for artists, and now there is a sign advertising luxury condos and also vacation rentals, and adding insult to injury is the obvious lack of parking. A local licensed appraiser brought to her attention that the required spaces for Pizza Picasso encompassed the entire lot, so how did that additional strip complex manage to finagle

parking from an already crowded situation? Therefore, with blatant discrepancies presently existing, why should anyone have faith in the ability to enforce anything proposed? Of primary concern is not only code enforcement, but also competition with legitimate tourist and lodging businesses. What is to prevent ADUs to be used for anything but short-term vacation rentals, since admittedly there is no possible way to enforce long-term rentals and regulate rental fees? Isn't there a state tax requiring a tax on rentals? Years ago, as manager of a large rental complex in Phoenix, she knows they were required to charge a tax at that time; has the law changed? If not, how do you propose to implement and monitor it? In calculating present availability of affordable rentals, staff has confirmed there is no record of existing unauthorized ADUs. Likewise, has consideration been given to the many rooms offered on a weekly basis in the classified section of the Sedona Red Rock New, and if not, why not? She has a couple of papers and every week there are columns of advertised rooms, so has that even been taken into consideration in so far as inventorying what is really available?

Blue Boelter, Sedona, AZ: Indicated that she supports the ADU Ordinance mainly because it provides a course of action for those who already have ADUs on their property and would like to become legal. She doesn't think the general populous knows how many of these are already in existence and are working beautifully. The other reason she supports it is that it is self-limiting and allows a 5-year window in which to observe what happens. ADUs have worked in other cities and towns very well and the argument about regulation and enforcement -- the truth is that were the City to actually enforce all of its current regulations, they would have to hire a huge amount of additional staff costing a lot more money. Nothing in this world is ever perfect, nor will it ever be, but this is an attempt at running a good City and she thinks it is going rather well. What this ordinance would do is create a regulatory path to compliance, which is how everything gets done that gets done right in this town, and it would add ADUs to those items that are reviewed and regulated and on the books. She has heard complaints about crime and all kinds of wild and crazy things; she happens to know of many situation, because she has clients who build houses with guesthouses, and she has friends who work in town, and she knows of one ADU that is occupied by a very successful artist, who is the toast of Sedona, and shown and sold in the best gallery in town that lives in an illegal ADU. The owners, tenant and the neighborhood are happy, and the town benefits by receiving sales tax from this person's work. In another case, she has clients that spend part of their time in Sedona and part of their time in Hawaii, and their guesthome is occupied by a middle-aged person who works part-time, but also cares for their home. They can have plants, because this person takes care of them and watches over their place and it benefits both parties; no one in the neighborhood is even aware or ever complained.

Dr. Dennis Rayner, Sedona, AZ: Indicated that although he is not against affordable housing, he is very much against the ADUs for several reasons. First, neighborhoods without CC&Rs are going to take the brunt of this action, if you pass it. It is going to result in degradation of neighborhoods and lowering values of homes. He finds the enforcement part of this very weak and unclear; it is a quagmire. A number of people have brought that up; it is a real quagmire and he finds it really repugnant that this is going to depend on neighbors turning in their neighbors; this is going to lead to a lot of discord. The penalties in case of violations are very unclear. He realizes that in the long run it could result in revocation, but he was thinking more in line of fines as you go along. If there are repeated violations and they aren't rectified, then there should be

some kind of fines that go along with this. Also, he thinks one-half of an ERU for an ADU is not right; it should be at least one ERU, certainly when the occupancy is two or greater.

Bettye Monzo, Sedona, AZ: Indicated she thinks it came up when she was listening to Vice Chairman Moriarty and realizing the needs we do have, and we do have needs for low-income --we have; we have a large variety, they are all illegal and she doesn't know why we are spending so much time on trying to put new ADUs in. There has been no look at the illegal ones to bring them forward to make them legal. She understands they can't be legal at this point, but she doesn't believe people are going to volunteer to make them legal, like the lady said earlier. They would have to pay taxes on it, and they aren't paying wastewater, why not? They are totally illegal; why haven't we looked at any of them? She goes to garage sales and has seen at least 50 illegal, so she doesn't know why the City can't go out on a real purpose and find them. Maybe we should be looking at that before we start adding to our stock. Lastly, when we do bring these illegal ones up-to-date as an ADU, they won't be counted in the 88 and she doesn't understand that either. She is just frustrated with this whole thing.

Nick Chandler, Sedona, AZ: Indicated that he has lived here for 24 years and in all of that time nothing has disturbed him more than this ADU idea. He doesn't see this as the best way to provide affordable housing. Even if housing costs were lowered for a Sedona employee, Sedona is an expensive place to live and it makes no sense for a man earning a low income to try to maintain his family in high-cost Sedona. If this ADU Ordinance is enacted, it would be like planting weeds in a flower bed. While the ordinance limits the number of ADUs that can be constructed initially, there is no restriction on how many of the hundreds of facilities being rented illegally in residential neighborhoods all over the City could be converted to legal rental units under this ordinance. This would be a cancer that could spread to dozens of Sedona's residential subdivisions, wrecking the privacy, security and value of hundreds of family homes within the City's boundary. The Council has demonstrated a lack of ability to enforce the Short-Term Rental Ordinance, just check the Internet advertising. He can see only chaos if this ordinance is enacted.

Bobbie Surber, Sedona, AZ: Indicated she is the Governing School Board President, and she hopes that you are aware that the school board did present the City with a resolution in support of workforce housing quite some time ago. Mike Aylstock, Superintendent of Schools, wrote a letter in support, which she would like to read now:

"Recruiting and maintaining highly-qualified teaching staff is one of the greatest challenges our administration team faces at Sedona-Oak Creek School District. Shrinking educational funding in Arizona will keep our entry-level salaries relatively low for years to come. When prospective teachers are in their initial salary compared to the high cost of living in the area, many are forced to accept positions in other parts of the state and simply due to the economic reasons.

If the district was able to steer prospective teachers toward more affordable housing, we would be much more competitive in our recruiting. The thought of having Accessory Dwelling Units available for rent to staff members is a very appealing prospect. When owners have these types of dwellings vacant and available, our new teachers are provided with the opportunity to live in high-quality housing in our school district at a cost lower than traditional housing.

I believe this would be a win-win situation for everyone involved. Our young teachers are able to live in beautiful Sedona and become a part of our neighborhood and community in which they teach, which is so important to the success of any educator, and the owner would be able to receive additional income by renting their ADU to a young professional. There could also be an exchange of rent for maintenance and other services. Having the availability of this type of housing would also have long-term positive impacts of young teachers. They would be able to build up savings for the down payment of their own home, start a young family and establish roots in Sedona.

I believe that it would be gratifying to the ADU owners to know that they are instrumental in getting a young professional started on what could be a long career life in Sedona. Thank you for your consideration of the content of this letter."

Bobbie noted that she also sent in requests from Marc Sterling and Dr. Lisa Hirsch and they wanted their letters be read into the minutes as well. Chairman Griffin indicated that the Commission doesn't normally do that, because we would have to read everybody's letters and the Commission has read their letters.

Helen Snyder, Sedona, AZ: Indicated she is a Housing Commissioner, but she is speaking for herself, and one of the things that is really important in a City is that you have regulations in place, so you can control the "weeds". If you don't have regulations that attempt to give you a way in which to prescribe the growth and development and put in place standards, you may get more "weeds". She is in support of this ordinance, because it spells out and gives the City a way in which to use oversight to look at ways in which it can control and hopefully bring the illegals up to a certain standard, and that is really important. Think of it without the ordinance, if you had no controls, no regulation, where would you be, and she thinks you would be in far worse shape than having the ordinance on the books.

Having no additional requests to speak, Chairman Griffin closed the public comment period and recessed the meeting at 7:14 p.m. The Chairman then reconvened the meeting at 7:23 p.m.

SUMMARY DISCUSSION:

John O'Brien indicated that in response to the public's comments, he would like to clarify that the City does not enforce CC&Rs. Staff currently would ask if the person has checked with their homeowners' association and received approval from the Architectural Review Committee or whatever, and if this ordinance is approved and someone came in with an ADU permit, that is what we would do. Staff would ask if the person has checked with the homeowners' association to see if ADUs are prohibited. If ADUs are prohibited, but they meet the City's requirements, we have to issue that permit. All we can do is let the property owner know that they need to check with the HOA before moving forward and that is legally all we can do. We will not, not issue an ADU permit just because it is prohibited by CC&Rs; we will just inform the property owners that they better check.

Vice Chairman Gillon asked if we know if there is anything that would prevent neighborhoods that feel discriminated against because they don't have CC&Rs from just adopting CC&Rs. Chairman Griffin explained that is a pretty big process. You

have to have a certain percentage of property owners to do it. It is definitely doable, but it isn't easy. Commissioner Eaton noted that it also is not the City's business.

John O'Brien indicated that regarding single-family versus multi-family, we don't see an issue there. We are adding another use in the zoning district called an ADU, like other uses allowed in single-family neighborhoods that are not single-family, such as churches, schools, daycare facilities and public utility installations, and we aren't changing the definition of a family, it is still the same number of occupants you can have under the current code, so staff doesn't feel that is an issue; nor do we feel this is a Community Plan-related issue. The Community Plan Objective 2.2 in the Housing Element says, "Evaluate opportunities to provide for accessory housing units in residential areas"; it has been in there for several years and that is what we are currently doing, so we don't see this as a Community Plan issue. We are not changing density designations, we're not changing any zoning, we are adding an ADU as an accessory use and there are already other uses listed in single-family neighborhoods that we don't require a Community Plan Amendment for, such as the daycare facilities, schools, public utility installations and churches. Staff doesn't see this as violating the Community Plan in any way. Additionally, the current maximum density that you can have in any single-family area by zoning is six dwelling units per acre and in an RS-6 zoning district, which is the Coffee Pot subdivision and RMH-6 which is in lower Harmony, in theory, if every single-family lot in those subdivisions added an ADU, which is highly unlikely given that not everybody wants to do it and there is a cap of 88 units, but if you assumed that, you are still only getting to 12 per acre, which is what the maximum density of the Community Plan is currently, so he doesn't see this as a Community Plan issue.

Vice Chairman Gillon asked with respect to the quasi-legal issues, he assumes this has been reviewed with the City's legal staff and John O'Brien indicated yes. The Vice Chairman then noted that if there were issues that they thought were serious, they would have brought them up. John O'Brien indicated we would think so; we have been working with the City Attorney's Office from day one.

John O'Brien indicated that as far as enforcement, yes, staff responds to complaints, which is typical of probably 85% of the communities out there. Staff doesn't have a major proactive enforcement program, but we do some targeted proactive enforcement on certain issues. Right now with the 89A corridor, we are doing some proactive commercial lighting enforcement and another one that we get proactive on is weeds. We do that at the direction of the City Council, if the Council says to be proactive on ADU enforcement, we will do that. We respond to complaints and we have staff observations, as staff is out there, if they see something, they will go after it if it is an obvious issue. We have enforced an illegal ADU in the Grasshopper Flats area recently. We found someone had bootlegged in two ADUs on the property illegally and we required that property to remove those ADU units and revert it back to a garage and a shed to remove the illegal kitchens, so we do enforcement action, when we find out about these things.

John O'Brien explained that Fairfield never had an affordable housing requirement in the Development Agreement; the only requirement was that they develop 64 rental apartments, but there was never any price or rental affordability issue in that Development Agreement. Likewise, View Plaza was never required to be an affordable project. Those four units above were a permitted use in that zoning district

and we had no mechanism to try to negotiate any affordable component for View Plaza. Regarding L'Auberge, the owner went back to Council and got a change through his Development Agreement, which he has every right to do. He couldn't do the four behind Sinagua Plaza, so he got four units approved on Schnebly Road through a Development Agreement with the City Council's approval. Pizza Picasso and View Plaza, for the square footage at the restaurant and for those retail uses at View Plaza plus the four units, satisfied the parking requirements to the number.

Regarding the rental tax, his understanding is if you have three rental units you are subject to a City Rental tax that is 3% of the rent, so an ADU is one rental unit and that would not apply.

Audree Juhlin indicated that on page 8 of the ordinance, in 918.06, Conditions of Approval, the last item on that list, says "The City may require the owner to remove any improvements added to establish an ADU in the event that any Condition of Approval is violated." She would like to add the language ". . . and require that the property owner revert to the single-family use, because on page 11 at the top of the page in C., we have a little discrepancy between the language in the Conditions of Approval and C. under Enforcement, which says the revocation of an ADU permit will require that the property revert to a single-dwelling use, so she would like to combine those two sentences to say that we can remove anything added to establish the ADU and require that the unit return back to a single-dwelling use. John O'Brien asked if she would take 918.10C and move it to 918.06E and Audree indicated yes.

Vice Chairman Gillon asked if we are eliminating that from the latter section and putting that wording in the former section. Audree explained that wording needs to be in one or both of the sections; it is up to the Commission to provide that direction, but she would like to combine those two to say that anything added to create the ADU could be requested to be removed and that unit would be reverted back to the single-family use. The Vice Chairman asked if there is no objection if we just add that last phrase onto the existing clause in E. under Conditions of Approval. Commissioner Hadley suggested leaving it in Enforcement and Vice Chairman Gillon and Commissioner Eaton agreed.

Ron Ramsey suggested that the reverse might make more sense. The Conditions of Approval just talk about your preliminary approval, whereas, if you take that language out of there and put it in the Enforcement section, you are talking about Enforcement options, so he would do the reverse, combine the language of the two phrases and leave it in the Enforcement section and take it out of the Conditions of Approval. John O'Brien summarized move 918.06E over to 918.10C and Audree Juhlin indicated that C. would then read, "The City may require the owner to remove any improvements added to establish an ADU in the event that any Condition of Approval is violated and require that the property revert to a single-family use."

Vice Chairman Gillon noted that there is also language in the Enforcement section that says, "Revocation of an ADU permit" and it doesn't say that in what you just said, so do you want those words in there? The Vice Chairman then suggested that Audree Juhlin work on some language, and then the Commission would ask for the language a little later on; John O'Brien agreed that is a good idea.

Chairman Griffin indicated that if you revoke an ADU permit and require the property to revert to single-dwelling use; what is that if you aren't allowing somebody to live there? What is that ADU really reverting to? Vice Chairman Gillon indicated it would revert to a guesthouse, garage, etc., that is allowed for that property; you would have to remove the kitchen facilities.

The Chairman indicated he would like to iron out a few of the issues we had and the Housing Commission's recommendations. Commissioner Hadley suggested going through the Housing Commission's recommendations as a whole, and then if those are okay, go back and address the other points. Audree indicated those recommendations are in the Staff Report beginning on page 10.

Commissioner Losoff indicated his only problem is with the General Comments. No Commissioners commented on Definitions Article 2, District Regulations Article 6, Development Standards Article 9, 918.02 Creation and 918.03 Criteria. In 918.04 Development Standards - Commissioner Eaton noted that "E" should be "D". There were no comments on 918.04J Size standards for ADUs, and in 918.06 Conditions of Approval - Vice Chairman Gillon noted that "F" should be "E".

Commissioner Losoff indicated that under General Comments, he doesn't see changing the last two and Vice Chairman Gillon indicated he concurred. Commissioner Eaton pointed out that we disagreed with the first General Comment. Vice Chairman Gillon explained that the second General Comment has to do with clarifying Director as Community Development Director and that is a good call. The Chairman indicated that the only one we are saying is the restructure of the whole thing; it is all in there, but we can't do it at this point.

Looking at the revisions on pages 1, 2, 3 and 4, Commissioner Eaton noted that we are taking out 918.03D and Chairman Griffin clarified that we are actually inserting the Housing Commission's suggestions into this; so 918.02A has a wording change and we are omitting home occupation from 918.03D, but we already agreed on those.

Commissioner Eaton indicated that he has to trust that the Housing Commission's recommendations will be folded in here the way we've agreed. Chairman Griffin indicated that if we make a motion on this, it would be part of that. There were no comments on page 7, and on page 8, the Chairman asked if everybody is okay with leaving "periodic" inspections under Conditions of Approval and with eliminating "E" putting it in Enforcement. Vice Chairman Gillon indicated yes, and Commissioner Eaton noted that going back, we have deleted 918.03D on page 4; Vice Chairman Gillon stated yes.

Commissioner Eaton referenced page 6 and asked if we did or did not eliminate the maximum number of parking spaces. Chairman Griffin indicated that he thought the consensus was to keep the maximum of two. Vice Chairman Gillon, Commissioners Losoff and Taylor, and the Chairman indicated they would leave it. Commissioner Eaton indicated that on page 8, we are moving the language from 918.06E to Enforcement and the Chairman agreed. There were no comments on page 9 and on page 10, the Chairman indicated that he didn't know if the Commission even had a say, but he thought the wastewater fee was excessive; however, we will leave it.

Commissioner Losoff indicated that the thing that has been bugging him the most is the Enforcement, and he thinks he has a suggestion that would make him feel better. On 918.11, Report to City Council, he would like for it to coincide with enforcement issues to see that we are meeting our goals. We are saying we are setting up ADUs to meet affordable housing, and he is not sure any of us know what affordable housing means. We've thrown around a lot of terms, students, nurses, teachers, maids, etc., but we haven't set a definition for affordable housing versus workforce housing versus whatever, so in the report, he would like to see, which would help with long-term enforcement, that your report includes not just a number of units, but things like the employment categories of the people renting these units and what the rents are. You don't have to be specific; he doesn't see us violating personal privacy, but you could have ranges and rent categories. Are we truly meeting affordable housing criteria, so if we have the 88 ADUs, are they paying exorbitant rents, because they can afford it, or are they paying affordable rents and are they working in the community and at what job categories? That would help us understand if we are meeting our overall goals for affordable housing. We talk about unmet housing needs, so what would be some other criteria? If you set a goal, you should have at the end of a period of time some criteria to measure if we met that goal, so he would like to throw out employment categories and rent levels to be included in the annual report and that would mean that you would have to do some surveys to see if we are doing what we set out to do.

Vice Chairman Gillon indicated that he shared Commissioner Losoff's concern that if we are going to set a goal, we ought to find ways to measure it, but on the other hand, he is a little concerned about asking the City in advance of doing this report to call 88 units plus the illegal ones that become legal and start asking questions like what does the person in the ADU do for a living, etc., so he would prefer to measure it on the information we can collect at the time the permit is issued, such as what is your expected rent for this unit, etc. If they are in the right rental range, he is not sure it matters what the occupation of the person is.

Commissioner Eaton noted that we are solving more than one problem with this ordinance; it is not only for affordable or workforce housing as we heard from some of the public. It is for mother-in-laws, caregivers and it answers other problems than for people that are employed at lower than average income. He doesn't think we need to ask that question and it is a hard one to ask anyway.

Chairman Griffin asked staff is there is any way we would get a heartbeat from this, and Audree indicated she thinks there is a way we can get an understanding; it may not necessarily be what types of occupations, it could be more the use and if it is in exchange for services, for family members, etc., more than specific jobs. We can ask upfront and do surveys, and she doesn't believe we will get 88 units. To send out a template letter wouldn't take much staff time to ask some simple questions, like if the unit was occupied, was rent collected, was it used for an exchange of services, was there any difficulties in finding people to occupy the unit, etc. Those kinds of questions could easily be obtained through . . . Commissioner Losoff interjected that he doubted that we would get 88 units too, but a simple letter, because the problem with using the time of the permit is that people may not know who will live there. At the end of the sunset period, to suggest either terminating or renewing, you need to have good information, which has been lacking in a lot of projects. This is an opportunity with something new, so let's get bona fide information to use to go forward or stop it, and the questions you outlined were pretty good. As people talk to us and we

hear the supporters' comments that it will help them pay their rent, etc., he is not sure that is what affordable housing is all about. If we are setting up affordable housing for people to come into the workforce that is great, but just to help somebody afford their house, be that as it may, we still have to ask all of those questions and that is a good compromise. Audree added that there are other communities that do similar approaches and we can see what kind of questions they ask, and then evaluate what information we think is important to bring to the Planning & Zoning Commission, Housing Commission and the City Council, as this is reevaluated annually in the Director's report. The Chairman added that definitely at the end of the sunset clause, it seems natural that there would be some informational-type survey.

John O'Brien indicated we have a big list and on line 3, he is thinking we would just say, "The report shall include at a minimum . . .", and then everything listed there, rather than try to laundry list this thing. He understands you want rent ranges and employment categories, so he has the gist of what you are getting at. Vice Chairman Gillon agreed that we can't project what the right information is, but he would be in favor of putting some language at the end of the list, such as ". . . and other information that may be gathered to judge the effectiveness of the ordinance." The consensus was that was excellent.

Commissioner Eaton indicated the Commission has been looking at this ordinance for three years, and in every step, we have heard about all of the existing illegal units. We are looking at a maximum of 88 new ADUs that we understand probably will not be achieved. We have no idea how many illegal ones will be converted to legal, but they exist now, so it won't increase the density. It is going to be incumbent upon the City, if we pass this, to do much more stringent enforcement of the ones that remain illegal. Everybody knows where they are; it is not a mystery. We have no idea how many there are, but lots of people know where lots of illegal ones are, and we are going to have a mechanism to eliminate those or make them come up to standard. John O'Brien confirmed the Commissioner was talking about after the grace period and indicated that if the Commission recommends this ordinance, it could be added in the motion that the City Council needs to direct staff to be proactive on enforcement of those illegal units after the grace period. It shouldn't be in the code, but it could be in the motion. Commissioner Eaton pointed out that he and John O'Brien have already put it in the minutes of this meeting, and we have had lots of testimony tonight that people are pretty much fed up with illegal units, and no it doesn't belong in the code, but we have a couple of Council members here and we can put it in the motion if the rest of the Commission agrees.

Vice Chairman Gillon asked if there is additional language for the proposed revision to the Enforcement section. Ron Ramsey explained that his recommendations were to take away from the Conditions of Approval what is now showing as subsection E, because it is really talking about a measure of enforcement, and it was somewhat inconsistent with the language that you had beginning on page 11 at the top, where it says that the revocation of the permit will require the property to revert to a single-dwelling use. C, on page 11, as it stands is probably correct; that should be an option for enforcement. You now have property that is going to go back to single-family residential, and in the context of this ordinance, he would take that to mean that you could have any permitted use of the structure that you built for the ADU, as long as it was consistent with the single-family use, such as a guesthouse, additional space, assuming you don't violate lot provisions, as the family would use it, but you can't rent

it. He still has some heartburn with the concept of going in from the earlier section and saying that you have the right to tell them to remove all improvements. What if they added an interior room and you are talking about ripping down a wall on the inside of the house? He is not sure that you need to do that, in light of the fact that you are now allowing them to simply use it as single-family residential. You talk about enforcement action, but he doesn't think it is going to be easy to tell them to level a separate structure, when an easier solution would be that if they are in violation, they no longer can have an ADU on that property and that is a stiff enough penalty to pay.

Ron added that one other comment is if it becomes something which under the final step of revocation means you no longer can have an ADU, then something has to be addressed to this agreement that you recorded that says it will be an ADU forever, because somehow we will have to tell them to change that as well, through an amended statement. It just seems that destroying the improvements is a step that you don't need to take and it might be difficult to enforce. Chairman Griffin indicated he thought it was only removing the improvements that made it an ADU. Audree explained that an improvement may mean a whole addition and are we really meaning that the whole addition needs to come down. John O'Brien added that if there is a way they can change it that is still a single-family use, then it makes sense.

Commissioner Eaton indicated we are really talking about the second kitchen. Vice Chairman Gillon suggested saying to remove any kitchen facilities; however, Chairman Griffin clarified that you could still have a kitchen, it is the cooking. Commissioner Hadley asked if we need to be that specific, because as soon as you start itemizing things you leave something out, and it reverts to a single-family dwelling, so that precludes having the detached thing with the kitchen. Ron agreed that you would be able to use the existing code; if you are back to square one, then you have to comply with single-family residential. The Chairman indicated that the beauty is that you are still within the setbacks, you haven't done anything with these that couldn't be done, so you haven't allowed anything outside of what could be allowed normally, so taking it back isn't really an issue. Why does it have to be recorded with the County, especially if it can be reverted? Audree explained that is a typical condition in most ADU Ordinances that we looked at, and they included recording when it was established and when it was no longer being used as an ADU. She agrees that we just remove E. in 918.06 in its entirety and use the existing language under 918.10C, and then include language that when an ADU is no longer an allowable use, it will be recorded with the County.

Commissioner Taylor indicated he could see where a lot of the units could be reverted to a studio; a number of his neighbors are in production as individuals in space within their homes. Ron Ramsey indicated he can go along with Audree's suggestion of just taking that piece out of the Conditions of Approval. Vice Chairman Gillon added that Audree also indicated a clause about getting back with the County. Ron agreed that you would have to record an amendment saying it is no longer an ADU and we can do that language. Chairman Griffin indicated that you would have to have the property owner's permission to record something and then remove it. Ron explained that we can simply say that the City will record, on its own, a notice of violation and removal of the ADU; he just doesn't want a continuing document indicating the property is eligible for an ADU, when it has been revoked.

Commissioner Taylor asked if an ADU gets a separate Post Office address and Audree explained that the Streets Department would make it 1055A and 1055 B, for example. Vice Chairman Gillon indicated we need to decide who does the revocation with the County and we need some language to support that. The Chairman asked if we can't just have that as "to be determined"; that is a legal issue and they can take care of that.

Commissioner Eaton indicated he has no other issues and hopes we can resolve this tonight. Commissioner Hadley indicated he has studied it and we have talked it to death, so he is okay at this point.

Vice Chairman Gillon indicated he is in favor of this; it has been successful in other similar towns and the feedback has been generally positive in the meetings conducted around the community. The feedback was mixed but pretty evenly mixed. It is a simple straightforward ordinance and in many ways it mirrors the existing codes and that makes it easier to manage. It is a controlled and conservative approach with restrictions on the maximum number of units and sunset provisions at the end, for the ordinance. It is environmentally sound and encourages people to live closer to where they work and therefore they will drive less, so in summary, affordable housing is a priority for the City and as long as it is a priority, we need to do something about it, and this is about the most modest proactive step we can take. He also agrees with all of the proposed Housing Commission's changes except the one we discussed, which is the combination of the Development Standards and Criteria and he would like to echo what has been said before and compliment the staff and Housing Commission on a lot of hard work and for really doing their homework on this issue.

Commissioner Losoff indicated he hasn't been an advocate of this. Since it came up, he has been against a lot of the issues, but he has general concerns. The whole issue came up before the City Council 20 years ago and he is not sure anyone has really looked at changing in 20 years, but there have been a lot of changes. The Community Plan is coming up for revisions and he was hoping this could wait until then, although apparently it is not going to. In 2001, it was looked at again, when the Housing Commission was formed and that is almost nine years ago; a lot of things have changed. He is not sure we know what affordable housing is or isn't; we don't have clear definitions, but on the ordinance, he has to compliment the staff also. Everything we have talked about, and from all of the focus group meetings and community meetings, the issues have been dealt with and he has been pleased with the adjustments in the ordinance. He liked it going down to 88 and some of the other changes. Two things that have turned his opinion around from voting against it to being for it are the enforcement, because without that survey he wouldn't vote for it, but with that it gives him the comfort level that at the end of a period of time we will know what we are trying to accomplish. Secondly, with an ordinance on the books like this, it sets up some criteria that would make things legal that aren't legal, and hopefully, we can make a second motion or attach it to the original motion that we strongly suggest to the City Council to look at these illegal buildings and not look the other way. It is a joke and makes all of us look ineffective, and if we are going to do anything to make this ordinance effective, we have to address the illegal side of it.

Commissioner Taylor stated that he is in favor of the project; he sees it as expanding the variety of housing in town and he finds it easy to vote for it, because of the 5-year sunset clause, since no one is sure what will happen and whether there will be 88 units or more people or less or what they will look like on various streets, but it is a good

idea and he likes it partially because he would like to see more studio space in town, and he thinks in time, as people sell their homes with these ADUs, other people may see them as studios. He doesn't believe the idea of building studios out in the cultural park or with projects will ever work, because he doesn't think that is something that would appeal to artists, but these will, so he likes the concept.

Chairman Griffin indicated that the illegal ones will be faced now, because there will be regulations and the people that want to make them legal will come forward, and he has had quite a few people mention that. They are not interested in doing it illegally; they want a legal means to do it. We aren't the first to do this and we spent a tremendous amount of time. The sunset clause is something that gives us an avenue to relook at it, and after 14 years on the Commission, he has seen a lot of issues that have had underlying concerns, like charter schools, and once we actually dealt with them and thought about them enough and put them in place, they did not become the issue that everyone thought and became a positive thing, so he also supports this and would like to compliment Audree for the time she has put into this and the Housing Commission, and thank God everyone is still alive that was on the original Housing Commission, so if this does pass, they will at least be able to see it, because that would haunt him forever.

Commissioner Eaton noted that there was a lot of concern about roundabouts and most people have now figured out that they work, and he thinks we will have about the same experience with this. It has been massaged and improved a great deal through a lot of work from the Housing Commission, staff, us and the public; therefore, he feels comfortable in moving the following:

MOTION: Commissioner Eaton moved to recommend approval of the Accessory Dwelling Unit Ordinance proposal dated December 1, 2009 as outlined in the Staff Report including the Housing Commission's recommended changes, with the exception of the first bullet under General Comments, and further with the amendments outlined tonight, specifically 918.06E will be eliminated and 918.10C will remain as is plus a statement with reference to recording in the County. And further, the Planning Commission recommends that once the ADUs that are illegal now have had a chance to become legal and have chosen not to do so, strict enforcement be enacted, and the amended language of 918.11 is accepted with the report to Council to say at the end, "and other information that may be gathered to measure the effectiveness of the ordinance".

Prior to receiving a second, Ron Ramsey indicated that in 918.12C on enforcement, we just need to add a second sentence to read, "The City will then record a notice of revocation of the Accessory Dwelling Unit permit."

Commissioner Eaton stated okay, but he had that under 918.10C, so it doesn't belong there? John O'Brien indicated that Ron Ramsey's language that he just read does belong there.

MOTION: Commissioner Eaton moved to recommend approval of the Accessory Dwelling Unit Ordinance proposal dated December 1, 2009 as outlined in the Staff Report including the Housing Commission's recommended changes, with the exception of the first bullet under General Comments, and further with the amendments outlined tonight, specifically 918.06E will be eliminated and 918.10C will remain as is plus a statement with reference to recording in the County. And further, the Planning Commission recommends that once the ADUs that are illegal now have had a chance to become legal and have chosen not to do so, strict enforcement

be enacted, and the amended language of 918.11 is accepted with the report to Council to say at the end, "and other information that may be gathered to measure the effectiveness of the ordinance", and in 918.10C add a second sentence to read, "The City will then record a notice of revocation of the Accessory Dwelling Unit permit." Vice Chairman Gillon seconded the motion. VOTE: Motion carried six (6) for and zero (0) opposed.

7. Discussion/possible action regarding future meeting dates and agenda items: (10 minutes 7:00-7:10)

Thursday, December 10, 2009 – 3:30 p.m. – Work Session

Tuesday, December 15, 2009 – 5:30 p.m. – Regular

John O'Brien indicated that both meetings relate to the three working teams for the Design Review Manual, Building Heights and Landscaping Code. It is set as a public hearing for action on December 15th to be forwarded to the City Council, and you will get the packets this Friday. We would like to have the work session on the 10th to ensure there is nothing missing. Vice Chairman Gillon indicated that we haven't discussed the effective date of the changes and John O'Brien indicated it is typically a 30-day period, but given the building heights and architects that are in the process of designing buildings based on the former code, we have done 6 months in the past and that can be discussed at the work session.

Vice Chairman Gillon indicated he would also like to discuss notification; architects don't want to be surprised. John O'Brien indicated both the effective date and notification can be discussed at the work session. Chairman Griffin asked if that would be the last December meeting and John O'Brien stated yes, except for a work session on Tuesday, December 29th and January 5th is the cultural park project, so we would like to have the work session on the prior Tuesday, since Thursday is New Year's Eve.

Commissioner Losoff indicated that he would not be present. John O'Brien indicated if that doesn't work, we could forego the work session, since it is a Conceptual Review. Chairman Griffin indicated it is a bad time for him, so if that is okay with the applicant, it would be better, because that is a tough time to meet.

Commissioner Losoff requested to agendize later work sessions on how we can weave the Redevelopment Plan into the Community Plan update, so we could keep some form of our working teams in operation to work on some of those issues.

8. Adjournment (7:10 pm)

The Chairman called for adjournment at 8:19 p.m., without objection.

I certify that the above is a true and correct summary of the meeting of the Planning & Zoning Commission held on December 1, 2009.

Donna A. S. Puckett, *Recording Secretary*

Date